S.B.Cr.Misc. Bail App. No. 4322/2007
(Ganpat Ram Vs. State of Rajasthan)

Date of order : 11/09/2007

HON'BLE MR.H.R.PANWAR, J.

Mr. J.S.Choudhary for the petitioner.

Mr V.R.Mehta, Public Prosecutor.

Heard learned counsel for the petitioner and the Public Prosecutor for the State. Perused the order impugned and challan papers as also the statement of prosecution witnesses so far recorded by the trial court.

It is contended by learned counsel for the petitioner that the first information report was lodged by PW-1 Ram Kishan father of the deceased who stated in the FIR that on being asked to his son Rawal Ram as to who inflicted the injuries, he named certain persons but the petitioner has not been named therein. It is further contended by counsel for the petitioner that even assuming the oral dying declaration of Rawal Ram in presence of PW-1 Ram Kishan, PW-8 Bhiyaram and PW-9 Hiraram, but all these three persons also do not specifically name the petitioner. The other evidence which the police collected during investigation is the statements of wife of the deceased Smt. Parmu, Smt. Sau and Mangilal whose statements are yet to be recorded by the trial court. However, learned counsel submits that so far as Smt. Parmu and Smt. Sau are concerned, even they have not named the present petitioner. So far as witness Mangilal is concerned, he has named the present petitioner but has not stated that any injury has been caused to the deceased by the petitioner. He

stated that the petitioner caused injuries to Smt. Parmu and Smt. Sau, whereas Smt. Parmu and Smt. Sau do not say having suffered injuries at the hands of the petitioner. It is further contended by learned counsel for the petitioner that except this, there is no other evidence connecting the petitioner.

Looking to the facts and circumstances of the case and the fact that the petitioner has not been named in the FIR lodged on the basis of oral dying declaration by deceased Rawal Ram by PW-1 Ram Kishan as also the persons in whose presence dying declaration was made do not name the present petitioner and other witnesses Parmu and Sau also do not name the present petitioner and if the witness Mangilal shows his presence stating that the petitioner caused injuries to Parmu and Sau, since the eye witnesses Parmu and Sau do not implicate the petitioner, without commenting on the merit of the case, having considered the oral arguments advanced by both the parties, I think it just and proper to enlarge the accused petitioner on bail.

Accordingly, this bail application filed under Sec. 439 Cr.P.C. is allowed and it is directed that petitioner Ganpat Ram S/o Surta Ram be released on bail in CR No. 92/2005 P.S. Lohawat, provided he executes a personal bond for a sum of Rs.20,000/- with two sound and solvent sureties in the sum of Rs. 10,000/- each to the satisfaction of learned trial court for his appearance before that court on each and every date of hearing and whenever called upon to do so till the completion of the trial.

(H.R.PANWAR), J.

RP